IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

Case No. 79-6309

RAYMOND ROBERT CLARK,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

SUPPLEMENTAL BRIEF OF PETITIONER ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

JACK O. JOHNSON
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TENTH JUDICIAL CIRCUIT

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ATTORNEYS FOR PETITIONER

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Petitioner files this Supplemental Brief pursuant to Rule 22.6 to apprise this Court of new factual developments in this cause. On September 29, 1980, an original action was filed in the Supreme Court of Florida on behalf of Petitioner and one hundred twenty-two (122) other death-sentenced defendants, alleging that the Court, since at least as early as 1975, has engaged in the continuing practice of requesting and receiving information concerning capital appellants which was not presented at trial and not a part of the trial record or record on appeal.

The information includes but is not limited to: presentence investigation reports concerning the capital offense under review or prior convictions unrelated to the capital offense; psychiatric evaluations or contact notes;

psychological screening reports; recitations of a capital defendant's refusal to submit to a psychiatric examination from which a report could be prepared; post-sentence investigation reports; probation or parole violation reports; and state prison classification and admissions summaries.

Documentation of the practice was provided in the Appendices attached to the Petition. Copies of the pleadings and the appendices are attached to this Supplemental Brief. Except as to some of the presentence investigations pertaining to the offense on appeal the above information was requested and received without notice to the capital appellants or their attorneys.

It was further alleged that, upon information and belief, a quantity of the information received by the Court, and of records reflecting the practice of requesting and receiving it, has at the Court's direction been destroyed or purged from the Court's files.

Based upon this original action, the Supreme Court of Florida, on the same date of filing, granted stays of execution for two (2) death-sentenced defendants whose death warrants had been signed by the Governor and who were scheduled to be executed October 8, 1970. The Court has directed the State of Florida to respond to the allegations contained in the Petition by October 14, 1980, and has scheduled oral argument for October 27, 1980.

The issues presented to this Court in the instant Petition for Writ of Certiorari involve the method of review and procedures employed by the Supreme Court of Florida in deciding Petitioner's case on direct appeal. The issues raised in the original action discussed above similarly involve the method of review and procedures employed by the Supreme Court of Florida in its mandatory appellate review of all capital cases.

Respectfully submitted,

JACK O. JOHNSON
PUBLIC DEFENDER
TENTH JUDICIAL CIRCUIT

BY: P. Douglas Brinkmeyer
P. DOUGLAS BRINKMEYER
Assistant Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to the Office of the Attorney General, Park Trammell Bldg., 1313 Tampa Street, 8th Floor, Tampa, Florida 33602, by mail this 8 day of October, 1980.

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